

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**

In the Matter of:

MUR No.: 04- 0043

Peggy Toomey Hammann,  
Respondent.

## ORDER AND NOTICE OF APPEALABLE AGENCY ACTION

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Peggy Toomey Hammann (“Respondent”), a candidate for State Representative, District 3, registered with the Arizona Secretary of State to be a legislative candidate in the 2004 election. Respondent was a participating candidate as defined in Arizona Revised Statutes (“A.R.S.”) §16-961(C)(1) of the Citizens Clean Elections Act (“Act”), A.R.S. §§ 16-940 *et seq.*

2. Respondent's adjusted primary election spending limit was \$17,558.34.

3. Respondent's adjusted general election spending limit was \$11,320.00.

4. Respondent wrote checks on October 28, 2004 for \$152.00 and on September 2, 2004 for \$50.00 that were returned due to insufficient funds in her campaign account. As she did not have campaign funds remaining to pay these checks, these expenditures in excess of her general election spending limits constitute a violation of ARS §16-941(A)(4).

5. On October 12, 2004, Respondent used campaign funds to pay a \$50.00 late filing fee to the Secretary of State. Use of campaign funds to pay fines or civil penalties constitutes a violation of ARS §16-948(D).

6. On November 1, 2004, Respondent received matching funds pursuant to ARS §16-952(B) in the amount of \$528.34. Respondent neither reported receipt of these funds, nor reported how

1 that money was spent. These ongoing failures to report constitute a violation of the reporting  
2 requirements set forth at ARS §16-913 and A.A.C. R2-20-109.

3 8. Respondent has failed to provide any explanation or defense to any of these violations.

4 9. For violations of the expenditure limits, the penalty is ten times the amount by which the  
5 expenditures exceed the limit. ARS § 16-942(A). As the returned checks totaled \$202.00, the  
6 penalty of ten times that amount is \$2,020.00.

7 10. The improper use of campaign funds to pay the fine exceeds the limit by the amount paid  
8 (\$50.00). Therefore the fine for improper use of funds in this fashion is ten times the amount  
9 expended, which is in this case \$500.00.

10 10. The civil penalty under ARS §16-942(B) for failing to comply with the reporting  
11 requirements imposed by Chapter 6 of Title 16 of the Arizona Revised Statutes is \$110.00 per  
12 day for legislative candidates. As the Respondent has yet to file any reports regarding the  
13 \$528.34 in matching funds received on November 1, 2004, the fine has been accruing daily. As  
14 ARS §16-942(B) limits penalties for failure to report to “twice the amount of expenditures or  
15 contributions not reported.” Therefore the appropriate penalty for this violation is \$1,056.68.  
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### 19 **ORDER**

20 Pursuant to A.R.S. §§ 16-942 and -957, A.A.C. R2-20-215 and A.A.C. R2-20-217, the  
21 Commission hereby orders the following:

22 Pursuant to A.R.S. §§ 16-942 and -957, A.A.C. R2-20-215 and A.A.C. R2-20-217, the  
23 Commission hereby orders the following:  
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1. Pursuant to A.R.S. § 16-942(A) and (B), Respondent shall pay a civil penalty in the total amount of \$3,576.68. This shall be satisfied upon receipt of payment at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

**NOTICE OF APPEALABLE AGENCY ACTION**

- You have the right to appeal this Order pursuant to the Arizona Administrative Procedures Act, A.R.S. § 41-1092.
- You may request an administrative hearing by submitting a written request for a hearing within 30 days of receipt of this Order. The request for a hearing shall identify the party, the party's address, the agency and the action being appealed and shall contain a concise statement of the reasons for the request for a hearing. The written request for a hearing shall be sent to the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.
- If you request a hearing, you may request an informal settlement conference pursuant to A.R.S. § 41-1092.06.
- Individuals with a disability may request reasonable accommodation by contacting Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007, Telephone: (602)-364-3477; and during a hearing by contacting the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007, Telephone: (602) 542-9826. Requests should be made as early as possible to allow time to arrange the accommodation.

Dated this \_\_\_\_ day of November 2005.

By: \_\_\_\_\_  
Marcia Busching, Chairwoman  
Citizens Clean Elections Commission

Original filed this \_\_\_\_ day  
of November 2005 with:

1 Campaign Finance Manager  
2 Citizens Clean Elections Commission  
3 1616 West Adams, Suite 110  
Phoenix, Arizona 85007

4 Copy of the foregoing  
5 sent via Federal Express  
6 this \_\_\_\_ day of November 2005 to:

7 Peggy Toomey Hammann  
8 4005 Lake Mary Road #18  
Flagstaff, AZ 86001

9 And to her email address as requested by  
10 Ms. Hammann on October 26, 2005:  
ToomeyPeggy@aol.com